

PATENT COOPERATION TREATY

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From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

To:

MURGITROYD & COMPANY
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GRANDE BRETAGNE

PCT

NOTIFICATION OF TRANSMITTAL OF THE INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(PCT Rule 71.1)

Date of mailing (day/month/year)	22.01.2010
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Applicant's or agent's file reference
P102085.WO.01/NHE

IMPORTANT NOTIFICATION

International application No. PCT/GB2008/051040	International filing date (day/month/year) 07.11.2008	Priority date (day/month/year) 09.11.2007
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Applicant
Pursuit Dynamics PLC.

1. The applicant is hereby notified that this International Preliminary Examining Authority transmits herewith the international preliminary report on patentability and its annexes, if any, established on the international application.
2. A copy of the report and its annexes, if any, is being transmitted to the International Bureau for communication to all the elected Offices.
3. Where required by any of the elected Offices, the International Bureau will prepare an English translation of the report (but not of any annexes) and will transmit such translation to those Offices.
4. **REMINDER**

The applicant must enter the national phase before each elected Office by performing certain acts (filing translations and paying national fees) within 30 months from the priority date (or later in some Offices) (Article 39(1)) (see also the reminder sent by the International Bureau with Form PCT/IB/301).

Where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary report on patentability. It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned.

For further details on the applicable time limits and requirements of the elected Offices, see Volume II of the PCT Applicant's Guide.

The applicant's attention is drawn to Article 33(5), which provides that the criteria of novelty, inventive step and industrial applicability described in Article 33(2) to (4) merely serve the purposes of international preliminary examination and that "any Contracting State may apply additional or different criteria for the purposes of deciding whether, in that State, the claimed inventions is patentable or not" (see also Article 27(5)). Such additional criteria may relate, for example, to exemptions from patentability, requirements for enabling disclosure, clarity and support for the claims.

Name and mailing address of the international
preliminary examining authority:



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PATENT COOPERATION TREATY

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INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference P102085.WO.01/NHE	FOR FURTHER ACTION		See Form PCT/IPEA/416
International application No. PCT/GB2008/051040	International filing date (day/month/year) 07.11.2008	Priority date (day/month/year) 09.11.2007	
International Patent Classification (IPC) or national classification and IPC INV. A62C31/05			
Applicant Pursuit Dynamics PLC.			
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>5</u> sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <ul style="list-style-type: none"> a. <input type="checkbox"/> <i>(sent to the applicant and to the International Bureau)</i> a total of sheets, as follows: <ul style="list-style-type: none"> <input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions). <input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box. b. <input type="checkbox"/> <i>(sent to the International Bureau only)</i> a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in electronic form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions). 			
<p>4. This report contains indications relating to the following items:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Box No. I Basis of the report <input type="checkbox"/> Box No. II Priority <input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability <input type="checkbox"/> Box No. IV Lack of unity of invention <input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement <input type="checkbox"/> Box No. VI Certain documents cited <input checked="" type="checkbox"/> Box No. VII Certain defects in the international application <input checked="" type="checkbox"/> Box No. VIII Certain observations on the international application 			
Date of submission of the demand 2009-09-09	Date of completion of this report 22.01.2010		
Name and mailing address of the international preliminary examining authority:  European Patent Office P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Fax: +31 70 340 - 3016	Authorized officer van Bilderbeek, Henk Telephone No. +31 70 340-3657		



INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.
PCT/GB2008/051040

Box No. I Basis of the report

1. With regard to the **language**, this report is based on
 - the international application in the language in which it was filed
 - a translation of the international application into , which is the language of a translation furnished for the purposes of:
 - international search (under Rules 12.3(a) and 23.1(b))
 - publication of the international application (under Rule 12.4(a))
 - international preliminary examination (under Rules 55.2(a) and/or 55.3(a))
2. With regard to the **elements*** of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

Description, Pages

1-32 as originally filed

Claims, Numbers

1-32 as originally filed

Drawings, Sheets

1/6-6/6 as originally filed

- a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing

3. The amendments have resulted in the cancellation of:
 - the description, pages
 - the claims, Nos.
 - the drawings, sheets/figs
 - the sequence listing (*specify*):
 - any table(s) related to sequence listing (*specify*):
4. This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
 - the description, pages
 - the claims, Nos.
 - the drawings, sheets/figs
 - the sequence listing (*specify*):
 - any table(s) related to sequence listing (*specify*):
5. This opinion has been established taking into account the **rectification of an obvious mistake** authorized by or notified to this Authority under Rule 91 (Rule 70.2 (e)).
6. Supplementary international search report(s) from Authority(ies) have been received and taken into account in drawing up this report (Rule 45bis.8(b) and (c)).

**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/GB2008/051040

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N) Yes: Claims 1-32

No: Claims

Inventive step (IS) Yes: Claims 1-32

No: Claims

Industrial applicability (IA) Yes: Claims 1-32

No: Claims

2. Citations and explanations (Rule 70.7):

see separate sheet

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

see separate sheet

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

see separate sheet

**INTERNATIONAL PRELIMINARY
REPORT ON PATENTABILITY
(SEPARATE SHEET)**

International application No.
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Re Item V

Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

Reference is made to the following document:

D1: US 2004/188104 A1 (BORISOV YULIAN Y [RU] ET AL) 30 September 2004 (2004-09-30)

The document D1 is regarded as being the closest prior art to the subject-matter of claim 1, and shows (the references in parentheses applying to this document): a mist generating apparatus having a longitudinal axis and comprising first and second opposing surfaces which define a transport fluid nozzle therebetween; and a working fluid passage (632) having an inlet connectable to a supply of working fluid, and an outlet on one of the first and second surfaces, the outlet communicating with the transport fluid nozzle (see fig.6b); wherein the transport fluid nozzle has a nozzle inlet (662) connectable to a supply of transport fluid, a nozzle outlet (672), and a throat portion (670) intermediate the nozzle inlet and nozzle outlet, and wherein the transport fluid nozzle projects radially from the longitudinal axis such that the nozzle defines a rotational angle about the longitudinal axis.

The subject-matter of claim 1 differs from this known apparatus in that the nozzle throat has a cross sectional area which is less than that of either the nozzle inlet or the nozzle outlet.

The subject-matter of claim 1 is therefore new (Article 33(2) PCT).

The problem to be solved by the present invention may be regarded as improving the efficiency of mist generating.

The solution to this problem proposed in claim 1 of the present application is considered as involving an inventive step (Article 33(3) PCT) for the following reasons: The particular configuration of the nozzle, resulting in more efficient mist generating, is not suggested by the prior-art available. Even if the problem can be considered as known, no hints can be found in the present state of the art that teach to modify the known mist generating apparatus to arrive at the apparatus as claimed.

**INTERNATIONAL PRELIMINARY
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The same reasoning applies, mutatis mutandis, to the subject-matter of the corresponding independent claims 22 and 32, which therefore are also considered new and inventive.

Claims 2-21, 23-31 are dependent on claims 1 and 22 respectively and as such also meet the requirements of the PCT with respect to novelty and inventive step.

Re Item VII

Certain defects in the international application

The features of the claims are not provided with reference signs placed in parentheses (Rule 6.2(b) PCT).

Re Item VIII

Certain observations on the international application

The term '*substantially*' used in claims 5, 12, 16, 24 is vague and unclear and leaves the reader in doubt as to the meaning of the technical features to which it refers, thereby rendering the definition of the subject-matter of said claims unclear, Article 6 PCT.
